

SPECIAL MEETING ON SAFETY STUDY REPORT
WORKERS' COMPENSATION INDUSTRIAL COUNCIL
JUNE 21, 2012

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, June 21, 2012, at 11:00 a.m., Offices of the West Virginia Insurance Commissioner, 1124 Smith Street, Room 400, Charleston, West Virginia.

Industrial Council Members Present:

Bill Dean, Chairman

Kent Hartsog, Vice-Chairman

Dan Marshall

1. Call to Order

Chairman Bill Dean called the meeting to order at 1:11 p.m.

2. Safety Study Report – Ryan Sims

Ryan Sims, Associate Counsel, OIC: Good afternoon, Chairman Dean and members of the Industrial Council. We are here today primarily to present to you what we believe is the final version – or hopefully very close to the final version – of the 2012 Safety Initiative Study. The West Virginia Safety and Health Extension presented an initial draft on May 31, 2012 and we received significant feedback on its questions. Between that meeting and now we have spent significant time working along with the West Virginia University Safety and Health Extension in addressing the issues raised at that meeting. We focused primarily on ensuring that all of the data ended up correctly and eliminated any anomalies as best we could, as well as contacting certain companies; making certain verifications, such as in a subsidiary situation; making sure they did in fact intend to reflect that their program was for their subsidiaries as well; both for the self-insureds and on the carrier side.

As reflected in the summary we sent out to you all, summarizing bullet point by bullet point the specifics of who we contacted, what we did, the final numbers should be fairly consistent with what I said the last time. In the carrier report, there ended up only being eight total responses. And this is because two of the top ten carriers – Charter Oak and Wausau – were subsidiaries of other carriers that were in the top ten. So,

ultimately Travelers answered for Charter Oak, and Liberty Mutual answered for Wausau. And they both actually answered for a number of their subsidiary companies, not just those two.

On the self-insured report it reflects a total of 63 responses. And the way that breaks down. . .DuPont, which is a single self-insured entity, submitted two responses because they have a separate safety and loss program for each of their West Virginia facilities. A number of companies, as we know, did in fact answer [and we followed up on this] for their subsidiaries and confirmed that their subsidiaries do in fact use the same safety and loss program. We called them and verified that. If you take the 63 responses, but then you add the 19 subsidiary entities who were answered for by their parent company this brings the total response rate to 82. So, we had 63 actual responses, but when you include the subsidiaries that would mean that 82 self-insured entities responded – 19 of them by way of their parent. And this would be a response rate of 93%, which we believe is substantially compliant. We do intend to follow-up with the six entities that did not respond and see why they did not, and review that issue on their annual review.

This version, which was not given to you, includes all the raw data. This is a much thicker version. An electronic version of this report. . .what you [Council] approve. . . hopefully a similar version of this report, maybe with a few changes or something like that, will be filed electronically with the Joint Committee. That is our requirement under the statute – to file electronically. The version you have is without all the responses, but electronically this will be filed.

With that, I will be glad to take any questions, and after that I am going to turn it over to Brandon Takacs and Mark Fullen from the West Virginia Safety and Health Extension for any additional questions.

Chairman Dean: Mr. Hartsog:

Kent Hartsog: I have three things. One is. . .this is a much better report this time than what we looked at when we came here the last time. Thank you very much. The second one is. . .I noticed that there was one self-insured where there was kind of a question mark regarding whether they have a safety and loss program. I would ask that the OIC follow-up on that and maybe use one of your internal guys to go out and actually review what they're doing, see if we feel like it is adequate, not adequate, and have him report back to us potentially at our August meeting. Give yourselves time to accomplish that. The third one is. . .I'm assuming, I guess that the Commissioner is

good with this report in presenting it to the Legislature and has been through it and you all are happy with it.

Andrew Pauley (General Counsel, OIC): That's correct. He has looked at it. He has seen the whole report and actually worked on it with us for a lot of hours. But everybody put in time, including Ryan, Sarah [Young], the Commissioner, and myself.

Mr. Hartsog: Well, it definitely shows a much better product. Thank you. But since he [Commissioner Riley] is going to be the one talking about this down at the Capitol, I wanted to make sure he is good with it.

Mr. Pauley: Sure.

Mr. Hartsog: Thank you very much. That's all I have.

Chairman Dean: Mr. Marshall, do you have any questions?

Dan Marshall: Not at this time, Mr. Chairman.

Chairman Dean: I see under the caption "Safety Study Results," are these all that responded? I noticed under "Construction" we just had one – Kvaerner – the only one that responded, or is that the only one you put in?

Mr. Sims: My understanding is the categorization here under the "Safety Study Results" only reflects the ones that responded, not the ones that did not respond.

Chairman Dean: I was just curious.

Mr. Sims: I don't believe there were any construction companies that did not respond.

Chairman Dean: Kvaerner is the only one that responded?

Mr. Pauley: That's the only self-insured.

Chairman Dean: Okay, I understand.

Mr. Sims: I do want to make one point, just for the sake of clarity. What we will do with this report is only file it electronically. The Legislature can see it and then request that the Commissioner come over to discuss it, but there is no statutory requirement

that the Commissioner go over there to discuss or present this report. I just wanted to point that out for clarity sake.

Mr. Hartsog: I understand that. But if somebody is going to get the phone call, it's going to be him.

Mr. Sims: Absolutely.

Mr. Pauley: And the point is well taken. We will be over there for Interims too.

Mr. Sims: And certainly if the Legislature reviewed it and had questions, that would be how it would occur – they would ask the Commissioner.

Mr. Hartsog: Mr. Chairman, the request that I made with regard to following up on that one, on self-insured, do I need to make a motion to that regard? Or is that something everybody is comfortable with following up on?

Mr. Pauley: I think it is a request we were already going to do. Having said that, whatever the Council wants to do, but I can assure you that we are looking into it either way.

Mr. Hartsog: And report back to us in August.

Mr. Pauley: We'll just consider it old business at the meeting in August.

Mr. Hartsog: That would be great.

Chairman Dean: And it's in the minutes so I think we're fine.

Mr. Sims: I don't think a motion is necessary. . .and we've verbally said on the record. . .

Mr. Hartsog: I'm happy. I just want to make sure. . .

Mr. Sims: With that I'm going to turn this over to the folks from the West Virginia Safety and Health Extension, in case there are any additional questions from the Industrial Council.

Mark Fullen, WV Health and Safety Extension: For the record, I want to thank everyone here at the Insurance Commissioner's Office for helping to pull this together.

The last two to three weeks it has been a lot of work in both of our offices to get this together, and we couldn't have done it without them. Thanks to the Industrial Council for your comments from the last meeting. I think it made a better report. Other than that we'll take any questions on the details of the report, if you have any beyond what you discussed with Ryan.

Chairman Dean: Very good. Mr. Hartsog, do you have any other questions or concerns?

Mr. Hartsog: No. Thank you.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No, Mr. Chairman.

Chairman Dean: Very good. Thank you.

Mr. Marshall: I would just make the same comment that Mr. Hartsog did. This is a useful product, a very helpful product, and of a quality that I personally appreciate. Thank you.

Chairman Dean: With no other questions, is there a motion to accept the report as stated?

Mr. Marshall: So made, Mr. Chairman.

Mr. Hartsog: Second.

Chairman Dean: A motion has been made and seconded to accept the Safety Study Report. Questions on the motion? All in favor, "aye." All opposed? The aye's have it.

3. General Public Comments

Chairman Dean: We'll move onto the general public comments. Does anybody from the general public have a comment today? [No comments.]

4. Old Business

Chairman Dean: We'll move onto old business. Does anybody from the Industrial Council have anything they would like to bring up under old business?

Mr. Hartsog: No, sir.

Mr. Marshall: No, Mr. Chairman.

5. New Business

Chairman Dean: We'll move onto new business. Is there anything that needs to be brought up under new business from the Industrial Council? Mr. Hartsog?

Mr. Hartsog: No, sir.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No, sir.

Chairman Dean: Commissioner Riley, do you have anything today?

Commissioner Michael Riley, OIC: No, sir.

6. Next Meeting

Chairman Dean: The next meeting is Thursday, July 5, 2012 at 1:00 p.m. Does that meet everybody's schedule?

7. Executive Session

Chairman Dean: The next order of business is Executive Session. The next item on the agenda is related to self-insured employers. These matters involve discussion as specific confidential information regarding a self-insured employer that would be exempted from disclosure under the West Virginia Freedom of Information Act pursuant to West Virginia Code §23-1-4(b). Therefore it is appropriate that the discussion take place in Executive Session under the provisions of West Virginia Code

§6-9A-4. If there is any action taken regarding these specific matters for an employer this will be done upon reconvening of the public session. Is there a motion to go into Executive Session?

Mr. Hartsog: So moved.

Mr. Marshall: Second.

Chairman Dean: A motion made and seconded to go into Executive Session. Any question on the motion? All in favor signify by saying "aye." All opposed? The aye's have it. [Motion passed.] We are in Executive Session.

[The Executive Session began at 11:25 a.m. and ended at 11:41 a.m.]

Chairman Dean: Is there a motion for adjournment now that we are back in regular session?

Mr. Hartsog made the motion for adjournment. The motion was seconded by Mr. Marshall and passed unanimously.

There being no further business the meeting adjourned at 11:42 a.m.